IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11034 of 2002

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

ALTAF HUSSAIN SARDARKHAN BELIM

Appearance:

MR ASHISH M DAGLI for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

MR NIRDOSH H RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 08/07/2004

ORAL JUDGEMENT

1. By this petition the petitioner has challenged the order dated 29.8.2002 passed by the Conciliation Officer and Deputy Labour Commissioner rejecting the Approval Application filed by the petitioner under section 33(2)(b) of the Act.

2. The respondent workman was working with the petitioner Corporation as Conductor. At the time of appointment the respondent workman was required to make a declaration in the prescribed form in respect of his involvement in any offence of the nature of moral turpitude. While filling up the said form, the respondent workman declared his answer in the negative. Subsequently the Corporation came to know that in the past the respondent workman was involved in criminal offence and conviction order was passed by Additional Sessions Judge, Mehsana, in Sessions Case No.21/86 for the offences punishable under section 302, Part II of IPC convicting him to undergo sentence for five years and imposed fine of Rs.500, in default to undergo further RI for four months. Therefore appropriate disciplinary proceedings were initiated against the respondent workman and ultimately his services came to be terminated on 2.4.2002.

3. The petitioner filed Approval Application before the Conciliation Officer and Labour Commissioner being Approval Application No.143/2002. The Conciliation Officer and Deputy Labour Commissioner, vide his order dated 29.8.2002, dismissed the said Approval Application. It is against the said order the present petition has been filed.

4. Heard the learned counsel for the respective parties. As a result of the hearing and discussion there is a consensus between the learned counsel and it is agreed that the Conciliation Officer and the Deputy Labour Commissioner may reconsider the Approval Application of the petitioner afresh in view of the contentions raised by the petitioner. However, learned counsel requested the Court not to discuss the merits of the matter and the matter may be remanded for fresh decision with a direction to decide the same within a stipulated time period.

5. In view of the above facts and circumstances, the petition is partly allowed. The order dated 29.8.2002 at Annexure-A passed by the Conciliation Officer and Deputy Labour Commissioner is quashed and set aside. The matter is remanded to the Conciliation Officer and Deputy Labour Court for fresh decision. By consent of the parties it

is directed that the Approval Application shall be placed before any other Conciliation Officer and Deputy Labour Commissioner, except the Officer who has taken the earlier impugned decision. The Conciliation Officer and Deputy Labour Commissioner shall take a decision on the Approval Application within two months from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

6. Vide order dated 28.10.2002 this Court had directed the Commissioner of Labour, Gujarat State to peruse the order passed by the Deputy Commissioner of Labour in Approval Application No.143/2002 and to take appropriate action and also to report to this Court. However, till this date no such report has been placed on record of this petition. Therefore, the Commissioner of Labour, Gujarat State is directed to place his report on record of this petition within four weeks from today. Mr. L.B. Dabhi, learned AGP, shall inform the Commissioner of Labour, Gujarat State, about the direction of this Court.

[K.S. JHAVERI, J.]

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